

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NORTHWEST SHEET METAL WORKERS
ORGANIZATIONAL TRUST, *et al.*,

Plaintiffs,

v.

CLIMATE SYSTEMS, LLC,

Defendant.

No. C11-1574RSL

ORDER RENOTING MOTION
FOR SUMMARY JUDGMENT

This matter comes before the Court on “Climate Systems LLC’s Motion for Summary Judgment.” Dkt. # 16. Defendant argues that (a) the Court lacks subject matter jurisdiction to adjudicate plaintiffs’ ERISA claims because only the National Labor Relations Board has the power to resolve rights under a collective bargaining agreement that has been lawfully repudiated and/or (b) the employer’s lawful repudiation of the collective bargaining agreement in October 2010 is a complete defense to post-repudiation claims for trust fund contributions.¹ Both of these arguments require a finding that defendant lawfully repudiated the

¹ The Court finds that a claim for contributions to a trust fund is governed by a six-year statute of limitations. Pierce County Hotel Employees and Restaurant Employees Heath Trust v. Elks Lodge, 827 F.2d 1324, 1328 (9th Cir. 1987). Defendant offers no authority for its contention that the statute of limitations should be determined based on the nature of defendant’s defense rather than plaintiff’s claim.

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1 collective bargaining agreement. Plaintiffs argue that defendant's motion for summary judgment
2 is premature because discovery regarding defendant's claim that it was a "one-employee
3 employer" during the relevant time frame was incomplete when they had to respond to the
4 motion.

5 Discovery closed on August 5, 2012. Plaintiffs should now be in possession of all
6 facts necessary to respond to defendant's motion (in addition to the summary data provided by
7 defendant earlier in the process). The Clerk of Court is directed to renote defendant's motion for
8 summary judgment (Dkt. # 16) on the Court's calendar for September 14, 2012. Plaintiffs may
9 file an amended response on or before September 10, 2012. Defendant may file an amended
10 reply on or before the note date.²

11 Dated this 27th day of August, 2012.

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13 Robert S. Lasnik

14 United States District Judge

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23 In Laborers Health and Welfare Trust Fund for N. Cal. v. Westlake Dev., 53 F.3d 979, 981 (9th Cir.
24 1995), the Ninth Circuit resolved on its merits an action for contributions under ERISA that was filed
long after the six month limitations period provided in the National Labor Relations Act had expired.

25 ² The amended memoranda, if filed, will replace the parties' original submissions in their
26 entirety and should be a complete statement of the parties' arguments.